EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 27577/21
Ivo SANADER
against Croatia

The European Court of Human Rights (First Section), sitting on 24 March 2026 as a Chamber composed of:

Ivana Jelić, *President*,
Erik Wennerström,
Raffaele Sabato,
Frédéric Krenc,
Mykola Gnatovskyy,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the above application lodged on 18 May 2021;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the withdrawal of Mr Davor Derenčinović, the judge elected in respect of Croatia, from sitting in the case (Rule 28 § 3 of the Rules of Court);

the decision of the President of the Section under Rule 29 § 2 (b) that less than three of the persons indicated in the list of *ad hoc* judges submitted in advance by the Government in accordance with Article 26 § 4 of the Convention and Rule 29 § 1 (a) satisfied the conditions set out in paragraph 1 (c) of this Rule;

the decision of the President of the Section to appoint Judge Mykola Gnatovskyy to sit as *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 § 2 (b)) in place of Mr Derenčinović;

Having deliberated, decides as follows:

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

INTRODUCTION

1. The case concerns the alleged lack of impartiality of the Constitutional Court in criminal proceedings conducted against, *inter alia*, the applicant, who is the former Prime Minister of Croatia. The proceedings were widely referred to by the national media as the "Planinska" case.

THE FACTS

2. The applicant, Mr Ivo Sanader, is a Croatian national who was born in 1953 and lives in Zagreb. He was represented before the Court by Mr Č. Prodanović and Ms J. Sloković, lawyers practising in Zagreb.

3. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

4. The facts of the case may be summarised as follows.

A. Criminal proceedings in the "Planinska" case

5. On 31 August 2012 the Office for the Suppression of Corruption and Organised Crime (*Ured za suzbijanje korupcije i organiziranog kriminaliteta*) indicted the applicant, M.M., S.F., P.Č., and the M. and C. companies before the Zagreb County Court for the criminal offences of abuse of power and authority or for instigating or aiding and abetting abuse of power and authority. The charges concerned the sale to the government of a property co-owned by the M. and C. companies and located on Planinska Street in Zagreb.

6. On 13 December 2012 a three-judge panel of the Zagreb County Court, presided over by Judge G.M.G., confirmed the indictment and sent the case for trial. Shortly thereafter, the proceedings were separated in respect of P.Č.

7. In the course of the proceedings against the remaining accused, S.F. and the two companies pleaded guilty, whereas the applicant and M.M. denied the charges against them.

8. By a final judgment of 4 April 2019, the Supreme Court found all the accused guilty, partly upholding and partly overturning the judgment of the Zagreb County Court of 7 April 2017. The applicant was found guilty of abuse of power and authority and sentenced to six years' imprisonment.

9. On 8 July 2019 the applicant lodged a constitutional complaint against the Supreme Court's judgment, in which he complained, *inter alia*, of the unfairness of the criminal proceedings against him. The Constitutional Court examined his constitutional complaint jointly with one lodged by M.M. It dismissed both constitutional complaints by a decision of 26 November 2020, which was served on the applicant's representatives on 7 December 2020.

10. The Constitutional Court sat as a panel of six judges, presided over by Judge R.M. Judge I.A.M., who usually acted as the panel's president, and

Judge M.Š. recused themselves from the case. According to the Government, Judge R.M. also acted as rapporteur in the case.

B. The "Fimi Media" case

11. Concurrently with the criminal proceedings in the "Planinska" case, several other sets of criminal proceedings on corruption charges were pending against the applicant. In particular, in a case referred to by the media as the "Fimi Media" case, the applicant was convicted at first instance in 2014. That judgment was quashed in 2015 by the Supreme Court, which remitted the case to the first-instance court.

12. One of the applicant's co-defendants in the "Fimi Media" case was M.B., who pleaded guilty to the charges against him and whose testimony incriminating the applicant was decisive for the applicant's conviction by the trial court. M.B. was represented by R.M., then a practising lawyer, who on 7 June 2016 became a Constitutional Court judge. In a closing statement given as M.B.'s defence lawyer in 2014, R.M. had referred to the content of M.B.'s testimony and emphasised the relationship of subordination which had existed between the applicant and M.B. He had stressed that M.B. had committed the acts of which he was accused out of his obedience to and fear of the applicant, who at the time had been the highest-ranking State official and head of the ruling party.

C. Other relevant information

13. According to the parties' submissions, upon his appointment to the Constitutional Court, Judge R.M.'s law office was "taken over" by lawyers from a law firm in which his son was employed as a trainee lawyer. Those lawyers, specifically T.G., continued representing M.B. in the "Fimi Media" case after it had been remitted to the first-instance court (see paragraphs 11-12 above). T.G. also represented one of the applicant's co-accused – the M. company – in the "Planinska" case. In addition, he was married to G.M.G., the Zagreb County Court judge who, as a member of the indictment panel, had participated in several sets of criminal proceedings against the applicant, including the "Planinska" case (see paragraph 6 above).

RELEVANT LEGAL FRAMEWORK

14. The relevant Article of the Croatian Constitution (*Ustav Republike Hrvatske*, Official Gazette no. 56/1990, with subsequent amendments) reads as follows:

Article 122

"The Constitutional Court of the Republic of Croatia shall consist of 13 judges elected by the Croatian Parliament ..."

15. The relevant provisions of the Constitutional Court Act (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*, Official Gazette nos. 99/1999 and 29/2002) read as follows:

Section 27(6)

"A judge of the Constitutional Court may not abstain from voting, unless he or she has participated in the enactment of a statute or subordinate legislation or the adoption of a decision upon which the Constitutional Court is required to rule."

Section 34

"Unless provided otherwise by this Constitutional Act, in the proceedings before it the Constitutional Court shall apply *mutatis mutandis* the provisions of the relevant procedural laws of the Republic of Croatia as ancillary rules."

Section 68

"(1) A panel composed of six judges shall decide on a constitutional complaint.

(2) A panel composed of three judges shall decide on constitutional complaints which do not meet procedural requirements (belated, lodged by unauthorised persons or [otherwise] inadmissible).

(3) The panel may only decide unanimously and with all its members present.

(4) If the panel does not reach a unanimous decision, or if the panel considers that the issue [raised in] the constitutional complaint is of wider importance, the constitutional complaint shall be decided by the [plenary] session of the Constitutional Court."

16. The relevant provisions of the Rules of Procedure of the Constitutional Court of the Republic of Croatia (*Poslovnik Ustavnog suda Republike Hrvatske*, Official Gazette no. 181/2003, with subsequent amendments) read as follows:

Section 23(3)

"If, owing to the nature of a given task, it is necessary to hold a session of a panel, and the absence of a particular judge who is a member of that panel is certain, or if a judge who is a member of that panel announces that he or she would abstain from voting in a case on the agenda, the President of the Constitutional Court shall designate a judge who is to replace at the session of the panel the absent judge or the judge who has announced that he or she would abstain from voting in a specific case."

Section 53

"(1) A judge may not abstain from voting, unless he or she has participated in the enactment of a statute or subordinate legislation or in the adoption of a decision upon which the Constitutional Court is required to rule (section 27(6) of the Constitutional Court Act).

(2) If the requirements for abstention from voting referred to in the previous subsection are met, the judge shall be obliged to inform the President of the Constitutional Court prior to the holding of the [plenary] session of the Constitutional Court or the session of the relevant panel.

(3) If a decision ... is to be taken by a panel ... unanimously, and a judge who is a member of the panel announces his or her abstention from voting in a particular case on the agenda of the session of the panel, the President of the Constitutional Court shall act in accordance with section 23(3) of these Rules."

17. The relevant Articles of the Code of Criminal Procedure (*Zakon o kaznenom postupku*, Official Gazette nos. 152/2008, 76/2009, 80/2011, 91/2012, 143/2012, 56/2013, 145/2013, 152/2014, 70/2017 and 126/2019), as in force at the material time, read as follows:

Article 32

"(1) A judge or lay judge shall be excluded from sitting in a case:

...

2. if he or she is related to the defendant, his or her counsel, the prosecutor, the victim, the injured person, or the legal guardian or legal representative [of one of these persons through being a] spouse, a relative by blood (either lineal, descending or ascending, or collateral to the fourth degree), or a relative by affinity to the second degree;

...

4. if, in the case at issue, he or she ... has taken part in the proceedings as ... a lawyer of the defendant [or] a legal representative ...

...

(2) A judge or lay judge may be recused in a particular case if it has been argued and proved that there are circumstances other than those listed in the previous paragraph which call his or her impartiality into doubt."

Article 33

"(1) A judge or lay judge, as soon as he or she discovers [the existence of] a ground for exclusion referred to in Article 32 § 1 of this Code, shall discontinue all activity in the case and inform the president of the court, who shall appoint a substitute judge ...

(2) If a judge or lay judge considers that other circumstances exist which justify his or her recusal (Article 32 § 2), he or she shall inform the president of the court."

COMPLAINTS

18. In his application to the Court dated 18 May 2021, the applicant complained under Article 6 § 1 of the Convention of the lack of impartiality of the Constitutional Court in the "Planinska" case on account of the involvement of Judge R.M., who had previously been M.B.'s defence lawyer in the "Fimi Media" case.

19. In his observations in reply to those of the Government, dated 29 July 2022, and in his factual update of 16 December 2022, the applicant

for the first time challenged Judge R.M.'s impartiality on account of R.M.'s ties with the law firm representing the applicant's co-defendants in the "Fimi Media" and "Planinska" cases (see paragraph 13 above). He further called into question the fairness of the "Planinska" case, on account of the involvement of T.G., and Judge G.M.G. (see paragraph 13 above). Lastly, he argued that, in view of those links, the fairness of the proceedings had already been tainted at first instance and had continued to be tainted throughout the impugned proceedings.

THE LAW

20. The applicant relied on Article 6 § 1 of the Convention, which reads as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law."

A. Preliminary remarks

21. The Court reiterates that a complaint is always characterised by the facts alleged in it. The Court is thus limited by the facts presented by an applicant and cannot seize on facts that have not been adduced by him or her and examine them for compatibility with the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 120-21 and 123-25, 20 March 2018; *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, §§ 137-38 and 145, 1 June 2023; and *Grosam v. the Czech Republic* [GC], no. 19750/13, §§ 88-90, 1 June 2023).

22. Furthermore, while there is nothing to prevent an applicant from raising a new complaint in the course of the proceedings before the Court, such a complaint must, like any other, comply with the admissibility requirements (see *Radomilja and Others*, cited above, § 135).

23. In the present case, the Court notes that the applicant relied on two different sets of circumstances concerning Judge R.M. which, in his view, cast doubt on the impartiality of the Constitutional Court panel that had decided on his constitutional complaint (see paragraphs 18-19 above). He also called into question the fairness of the "Planinska" case on account of the participation of T.G. and Judge G.M.G. (see paragraph 19 above). The Court will examine these complaints separately.

B. Judge R.M.'s ties with the law firm representing the applicant's co-defendants in the "Fimi Media" and "Planinska" cases

24. The Court notes that, in addition to the facts referred to in his application to the Court (that the Constitutional Court Judge R.M. in the "Planinska" case lacked impartiality on account of his involvement in the

"Fimi Media" case as M.B.'s defence lawyer, see paragraph 18 above), in his observations of 29 July 2022 and factual update of 16 December 2022, the applicant relied on several other facts to call into question Judge R.M.'s impartiality, namely Judge R.M.'s ties with the law firm representing the applicant's co-defendants in the "Fimi Media" and "Planinska" cases (see paragraph 19 above).

25. The Court observes that those facts differ significantly from the ones concerning Judge R.M.'s role in the "Fimi Media" case, which the applicant relied on initially (see paragraph 18 above). They therefore change the substance of the applicant's complaint concerning the alleged lack of impartiality of the Constitutional Court and amount, in effect, to a new complaint (see paragraph 21 above).

26. Reiterating that there is nothing to prevent an applicant from raising a new complaint in the course of the proceedings before the Court, but that such a complaint must, like any other, comply with the admissibility requirements (see paragraph 22 above), the Court notes that the applicant relied on the facts concerning Judge R.M.'s ties with the law firm representing his co-defendants in the "Fimi Media" and "Planinska" cases for the first time in his submissions of 29 July 2022 and 16 December 2022, that is, more than six months[1] after the domestic proceedings in his case had ended (see paragraph 9 above).

27. Accordingly, this complaint has been lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

C. T.G.'s ties with Judge G.M.G.

28. The applicant also called into question the fairness of the "Planinska" case on account of the involvement of T.G., a lawyer in the law firm which had "taken over" the law office of R.M., and of T.G.'s wife, G.M.G., a Zagreb County Court judge (see paragraph 19 above).

29. The Court observes that the applicant relied on those facts, which likewise amount to a new complaint (see paragraph 25 above), for the first time in his submissions of 16 December 2022, that is, more than six months after the domestic proceedings in his case had ended (see paragraph 9 above).

30. Accordingly, this complaint has also been lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

[1] Protocol No. 15 to the Convention has shortened to four months from the final domestic decision the time-limit provided for by Article 35 § 1 of the Convention. However, in the present case the six-month period still applies, given that the final domestic decision was taken prior to 1 February 2022, the date of entry into force of the new rule (pursuant to Article 8 § 3 of Protocol No. 15 to the Convention).

D. Judge R.M.'s involvement in the "Fimi Media" case

31. In his application to the Court, the applicant complained of the lack of impartiality of the Constitutional Court in the "Planinska" case on account of the involvement of Judge R.M., who had previously been M.B.'s defence lawyer in the "Fimi Media" case (see paragraph 18 above).

1. The parties' submissions

(a) The Government

32. The Government argued that the applicant had failed to exhaust the available domestic legal remedies for his complaint. In particular, the applicant should already have known, when lodging his constitutional complaint, that Judge R.M. might take part in the Constitutional Court proceedings. He should therefore have lodged a request for the withdrawal of Judge R.M. in his constitutional complaint or during the proceedings before the Constitutional Court.

33. In any event, the Government maintained that the applicant had failed to credibly show that Judge R.M. had lacked impartiality. In particular, the criminal proceedings in the "Planinska" and "Fimi Media" cases had been two separate sets of proceedings. Hence, Judge R.M. had never been involved in the same or connected sets of proceedings in two capacities. There had also been nothing in the Constitutional Court's decision in the "Planinska" case to indicate any connection with the proceedings in the "Fimi Media" case, nor anything to show that the applicant's constitutional complaint had been dismissed on the basis of a previously formed opinion.

34. With regard to R.M.'s involvement in the "Fimi Media" case in his capacity as M.B.'s lawyer, the Government pointed out that R.M. had only followed the instructions of his client, who had pleaded guilty at the very beginning of the proceedings and had based his defence on that plea. In doing so, R.M. had performed his duty professionally and without being influenced by his personal beliefs. Moreover, as a lawyer, he had never represented the party opposing the applicant, but rather one of his co-defendants. Additionally, in his capacity as M.B.'s lawyer, R.M. had made his closing statement in the "Fimi Media" case as far back as six years prior to the Constitutional Court's decision in the "Planinska" case.

35. Lastly, the Government maintained that, in view of the fact that the Constitutional Court, sitting as a six-judge panel, had unanimously dismissed the applicant's constitutional complaint, the applicant's claims that Judge R.M. could have influenced the entire panel were unfounded.

(b) The applicant

36. The applicant maintained that he had had no legal means at his disposal to request that Judge R.M. be excluded from sitting in his case. He

also stressed that he had only learned of Judge R.M.'s participation in the proceedings before the Constitutional Court when he had received a copy of that court's decision on his constitutional complaint.

37. The applicant submitted that in the "Fimi Media" case, R.M. had represented one of his co-accused, M.B., whose confession had been used as decisive evidence for the applicant's conviction by the trial court in those proceedings. Although the trial court's judgment had subsequently been quashed and the case remitted, in his closing statement – which he had given as M.B.'s defence lawyer in 2014 – R.M. had accused the applicant of having committed the criminal offence he had been charged with in the "Fimi Media" case.

38. The applicant maintained that, in view of those circumstances, his apprehension about Judge R.M.'s impartiality was necessarily justified. In that connection, he warned against downplaying the role of a defendant's lawyer in criminal proceedings. He also stressed that he was not obliged to prove that Judge R.M. had indeed been biased in his case.

39. With regard to the fact that the Constitutional Court had unanimously dismissed his constitutional complaint, the applicant submitted that the very possibility that Judge R.M. could have influenced the other members of the panel raised doubts as to the fairness of the trial. This was especially so since Judge R.M. had also acted as rapporteur in the case and the deputy president of the panel. Those doubts could only have been dispelled by Judge R.M. recusing himself.

2. The Court's assessment

(a) Non-exhaustion of domestic remedies

40. At the outset, the Court notes that there is no indication in the facts of the case or the parties' submissions that the applicant knew or could have known before 7 December 2020 (when the Constitutional Court's decision was served on his representatives – see paragraph 9 above) that his case would be decided by a panel of that court including Judge R.M.

41. In particular, in the period after the applicant had lodged his constitutional complaint and before the Constitutional Court adopted its decision, there was no oral and public hearing or other decision in the applicant's case on the basis of which he could have anticipated the composition of the panel deciding it. The present case should thus be distinguished from *Juričić v. Croatia*, no. 58222/09, §§ 61-64, 26 July 2011, where the Court held that the applicant could have expected that the Constitutional Court would decide her case in a plenary session, *inter alia*, because it had in the same composition previously decided on the interim measure in the same case (ibid., §§ 62-63).

42. Furthermore, the Court observes that the Constitutional Court, which is composed of 13 judges (see paragraph 14 above), decides on constitutional

complaints as a panel of six judges – as it did in the applicant's case – unless a complaint is inadmissible, when it decides as a panel of three judges (see paragraph 15 above). Accordingly, and in contrast to the situation in *Juričić* (cited above, § 63), where the inclusion of a certain judge was not only possible but very likely, or *Pirtskhalava and Y v. Georgia* ((dec.), nos. 11025/22 and 11032/22, §§ 62-64, 4 November 2025), where the inclusion of a certain judge in a panel deciding on the applicants' appeals on points of law was more likely than not, in the present case it cannot be said that the likelihood of the applicant's constitutional complaint being decided by a panel of the Constitutional Court including Judge R.M. was such that the applicant should have anticipated that possibility. The Court has already held that, in such circumstances, applicants are not obliged to pre-emptively request the withdrawal of judges whose impartiality could be open to doubt (see *Croatian Golf Federation v. Croatia*, no. 66994/14, §§ 110-21, 17 December 2020). It sees no reason to hold otherwise in the present case and therefore dismisses the Government's objection in this respect.

(b) Manifestly ill-founded

43. The Court reiterates that impartiality normally denotes the absence of prejudice or bias and its existence or otherwise can be tested in various ways. According to the Court's settled case-law, the existence of impartiality for the purposes of Article 6 § 1 must be determined according to a subjective test where regard must be had to the personal conviction and behaviour of a particular judge, that is, whether the judge held any personal prejudice or bias in a given case; and also according to an objective test, that is to say by ascertaining whether the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality (see, for example, *Kyprianou v. Cyprus* [GC], no. 73797/01, § 118, ECHR 2005-XIII; *Micallef v. Malta* [GC], no. 17056/06, § 93, ECHR 2009; *Morice v. France* [GC], no. 29369/10, § 73, ECHR 2015; and *Ilnseher v. Germany* [GC], nos. 10211/12 and 27505/14, § 287, 4 December 2018).

44. As to the subjective test, the principle that a tribunal must be presumed to be free of personal prejudice or partiality is long-established in the case-law of the Court (see *Kyprianou*, § 119; *Micallef*, § 94; and *Morice*, § 74, all cited above). The personal impartiality of a judge must be presumed until there is proof to the contrary (see *Hauschildt v. Denmark*, 24 May 1989, § 47, Series A no. 154). As regards the type of proof required, the Court has, for example, sought to ascertain whether a judge has displayed hostility or ill will for personal reasons (see *De Cubber v. Belgium*, 26 October 1984, § 25, Series A no. 86, and *Morice*, cited above, § 74).

45. In the vast majority of cases raising impartiality issues the Court has focused on the objective test (see *Micallef*, cited above, § 95). However, there is no watertight division between subjective and objective impartiality since

the conduct of a judge may not only prompt objectively held misgivings as to impartiality from the point of view of the external observer (objective test) but may also go to the issue of his or her personal conviction (subjective test) (see *Kyprianou*, cited above, § 119). Thus, in some cases where it may be difficult to procure evidence with which to rebut the presumption of the judge's subjective impartiality, the requirement of objective impartiality provides a further important guarantee (see *Pullar v. the United Kingdom*, 10 June 1996, § 32, *Reports of Judgments and Decisions* 1996-III, and *Morice*, cited above, § 75).

46. As to the objective test, it must be determined whether, quite apart from the judge's conduct, there are ascertainable facts which may raise doubts as to his or her impartiality. This implies that, in deciding whether in a given case there is a legitimate reason to fear that a particular judge or a body sitting as a bench lacks impartiality, the standpoint of the person concerned is important but not decisive. What is decisive is whether this fear can be held to be objectively justified (see *Micallef*, cited above, § 96).

47. The objective test mostly concerns hierarchical or other links between the judge and other protagonists in the proceedings. It must therefore be decided in each individual case whether the relationship in question is of such a nature and degree as to indicate a lack of impartiality on the part of the tribunal (see *Morice*, cited above, § 77).

48. In this connection even appearances may be of a certain importance or, in other words, "justice must not only be done, it must also be seen to be done" (see *De Cubber*, cited above, § 26). What is at stake is the confidence which the courts in a democratic society must inspire in the public. Thus, any judge in respect of whom there is a legitimate reason to fear a lack of impartiality must withdraw (see *Castillo Algar v. Spain*, 28 October 1998, § 45, *Reports* 1998-VIII; *Micallef*, cited above, § 98; and *Morice*, cited above, § 78).

49. Moreover, in order that the courts may inspire in the public the confidence which is indispensable, account must also be taken of questions of internal organisation (see *Piersack v. Belgium*, 1 October 1982, § 30 (d), Series A no. 53). The existence of national procedures for ensuring impartiality, namely rules regulating the withdrawal of judges, is a relevant factor. Such rules manifest the national legislature's concern to remove all reasonable doubts as to the impartiality of the judge or court concerned and constitute an attempt to ensure impartiality by eliminating the causes of such concerns (see *Zahirović v. Croatia*, no. 58590/11, § 35, 25 April 2013). In addition to ensuring the absence of actual bias, they are directed at removing any appearance of partiality and so serve to promote the confidence which the courts in a democratic society must inspire in the public. The Court will take such rules into account when making its own assessment as to whether a tribunal was impartial and, in particular, whether the applicant's fears can be held to be objectively justified (see *Micallef*, cited above, § 99).

50. Lastly, the Court finds it important to reiterate that the right to be tried by an impartial tribunal is of essential importance, and that the exercise of that right cannot depend on the parties alone (see *Pfeifer and Plankl v. Austria*, no. 10802/84, § 38, 25 January 1992, and *Mamić and Others v. Croatia* (dec.), nos. 21714/22 and 2 others, § 128, 9 July 2024). Judges should maintain and enforce high standards of conduct and should personally observe those standards so as to maintain the integrity of the judiciary. Any breach of such standards diminishes the public confidence which the courts in a democratic society must inspire in the public (see *Morice*, cited above, § 78, and *Škrlj v. Croatia*, no. 32953/13, § 43, 11 July 2019).

51. Turning to the present case, the applicant argued that Judge R.M.'s involvement in the "Fimi Media" case as a defence lawyer for one of his co-defendants (see paragraphs 12 and 18 above) meant that he had not been impartial as a Constitutional Court judge in the "Planinska" case.

52. The Court firstly notes that the applicant did not argue, nor does it appear from the case file, that there existed any material connection between the two sets of proceedings. While the charges in both cases concerned corruption, the Court observes that the two cases were unrelated, and that there is nothing to indicate that the domestic courts' decisions in the "Fimi Media" case contained any findings that could have prejudged the question of the applicant's guilt in the subsequent proceedings in the "Planinska" case.

53. Secondly, the Court notes that more than four years elapsed between R.M.'s appointment to the Constitutional Court (and therefore the end of his engagement as a defence lawyer in the "Fimi Media" case) and his involvement in the Constitutional Court proceedings in the "Planinska" case (see paragraphs 9 and 12 above).

54. While the mere passage of time is not of decisive importance (see *Dāvidsons and Savins v. Latvia*, nos. 17574/07 and 25235/07, § 57, 7 January 2016), the Court finds it relevant that there was no overlap between R.M.'s roles in the two sets of proceedings, as also stressed in previous comparable cases.

55. Notably, in *Puolitaival and Pirttiaho v. Finland* (no. 54857/00, §§ 46-54, 23 November 2004), an appellate court judge in the proceedings at issue had earlier acted as counsel representing the party opposing the applicants' company in another set of proceedings. The Court held that – having regard, in particular, to the remoteness in time and the different subject matter of the two sets of proceedings, and to the fact that the functions as counsel and judge had not overlapped in time – the applicants could not have entertained any objectively justified doubts as to the judge's impartiality.

56. By contrast, in *Wettstein v. Switzerland* (no. 33958/96, § 47, ECHR 2000-XII), there had been an overlap in time in respect of two sets of proceedings in which a person had exercised the function of a judge in one case and had been the legal representative of the party opposing the applicant

in the other case. The Court concluded that that situation could have raised legitimate fears in the applicant that the person concerned, when acting as a judge, was not approaching the case with the requisite impartiality (compare also *Morice*, cited above, § 84, where there was also a certain overlap).

57. Thirdly, the Court observes that it is true that in his closing statement in the "Fimi Media" case in 2014 (which he gave in his role as a defence lawyer for a co-accused some six years before he sat as a Constitutional Court judge in the "Planinska" case), R.M. stressed the applicant's role in the events at issue. However, that is not sufficient to justify, from an objective standpoint, the fear that R.M. was prejudiced in the subsequent and unrelated "Planinska" case.

58. In particular, in the "Fimi Media" case, R.M. was tasked with defending his client, M.B. (see paragraph 12 above). In so doing, he protected his client's best interests regarding the manner of defence, and his closing statement must therefore be viewed in the context of those judicial proceedings (compare, *mutatis mutandis*, *Pisanski v. Croatia*, no. 28794/18, § 70, 4 June 2024). The Court thus discerns no reasons to view the closing statement as a reflection of R.M.'s personal bias against the applicant (contrast *Morice*, cited above, § 86).

59. Fourthly, the Court notes that the Constitutional Court's decision in the "Planinska" case contained only one contextual reference to the "Fimi Media" case, which was limited to the applicant's specific complaint about a multitude of concurrent sets of criminal proceedings against him. The Court observes that the Constitutional Court judges examined the applicant's grievances in the "Planinska" case strictly on the basis of the case file and that there is nothing to suggest that their assessment was influenced in any way by the "Fimi Media" proceedings (see *Schwarzenberger v. Germany*, no. 75737/01, § 43, 10 August 2006, and compare, *mutatis mutandis*, *Drago Tadić v. Croatia*, no. 25551/18, § 114, 28 November 2023).

60. In view of all of the above, the Court finds that the applicant's fears as regards the lack of impartiality of the Constitutional Court in the criminal proceedings against him, on account of Judge R.M.'s previous involvement as a defence lawyer for a co-accused in an unrelated set of criminal proceedings against him several years earlier, cannot be regarded as objectively justified.

61. Accordingly, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 30 April 2026.

Liv Tigerstedt Deputy Registrar	Ivana Jelić President